

HARRY F. LINDALL

MARCH 19, 1958.—Committed to the Committee of the Whole House and ordered to be printed

Mr. POFF, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 2966]

The Committee on the Judiciary, to whom was referred the bill (H. R. 2966) for the relief of Harry F. Lindall, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendment is as follows:

Page 2, lines 5 and 6, strike out "in excess of 10 per centum thereof".

The purpose of the proposed legislation is to pay the sum of \$2,273 to Harry F. Lindall as reimbursement of medical, hospital, and other expenses incurred by him in connection with the treatment of a recurring fungus infection of his hands and feet, beginning in May 1946, which necessitated his disability retirement under the Civil Service Retirement Act of May 29, 1930, from the civilian service of the Department of the Navy.

STATEMENT OF FACTS

Mr. Lindall was a civilian employee of the Navy. In May 1946, he was required as apparently the only person who had proper security clearance to clean off classified equipment which had been shipped from the South Pacific, with a fungus sort of green mould. Shortly thereafter he began to develop blisters on his feet, apparently because some of the fungus had fallen into his shoes. Since that time he has had recurring attacks; he has been in and out of hospitals. He is at present drawing compensation. However, his expenses incident to the disability have been enormous. He has submitted to the committee total expenditures of \$2,273 for treatment for this disability.

Under date of July 12, 1957, an adverse report was received by the committee from the Department of Labor. In essence, the

Department objected to the bill on the grounds that Mr. Lindall's disability was not occupational. This seems to be unfair, in view of the fact that he was separated from Government employment at Puget Sound Naval Shipyard as totally disabled and awarded full compensation based on his admittedly service-connected condition.

Statements in the file from physicians indicate that he may never fully recover and treatment will be necessary for years to come.

Therefore, your committee recommend favorable consideration of the bill.

The author of the bill advises the committee that no attorney is involved.

DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, June 12, 1957.

Hon. EMANUEL CELLER,

*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

DEAR CONGRESSMAN CELLER: This is in further response to your request for my comments on H. R. 2966, a bill for the relief of Harry F. Lindall.

The bill would authorize the payment of \$2,273 to Harry F. Lindall in full settlement of all claims against the United States for medical and other expenses incurred by him in connection with a recurring fungus infection of his hands and feet.

The records of the Bureau of Employees' Compensation of this Department show that Harry Lindall was a civilian employee of the Puget Sound Naval Shipyard, Bremerton, Wash., in June 1946, the time the infection is asserted to have appeared. The claimant alleges the infection was contracted as a result of handling equipment shipped from the South Pacific. This equipment was covered with a mold commonly found in that area.

Mr. Lindall's initial claim for compensation and notice of injury under the Federal Employees' Compensation Act was dated October 2, 1951, and received by the Bureau on November 13, 1951. A formal claim for compensation for intermittent periods of disability between June 1946 and 1952 was rejected by the Bureau on the ground that it was barred by the 5-year time limitation of the act. Although there was for this reason no formal adjudication of the claim on its merits, the Bureau has been advised of facts which would be relevant in any such adjudication. It has been advised that no incidence of pathogenic fungus was determined in any of the numerous cultures made by the New York Naval Shipyard and the naval supply depot at Bayonne, N. J., of equipment and supplies of various types returned from the South Pacific.

The claim presented for settlement by this bill arises out of an alleged occupational disability. Statutory provision has been made for the orderly adjudication of claims of this character under the Federal Employees' Compensation Act. The legislative adjudication of this claim as proposed in this bill would create an undesirable precedent. For that reason and because the bill would provide preferential treatment of a single individual in a group of similarly situ-

ated persons, in respect of a claim which available evidence does not appear to support, I am opposed to its enactment.

The Bureau of the Budget advises that it has no objection to the submission of this report.

Sincerely yours,

JAMES T. O'CONNELL,
Acting Secretary of Labor.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D. C., April 25, 1957.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to your letter of January 29, 1957, to the Secretary of the Navy requesting comment on H. R. 2966, a bill for the relief of Harry F. Lindall.

The bill would authorize payment to Mr. Lindall of \$2,273 in settlement and reimbursement for medical and other expenses incurred by Mr. Lindall in the treatment of a recurring fungus infection which necessitated his disability retirement from the civilian service of the Department of the Navy.

The records of this Department indicate that Mr. Lindall was under treatment by his personal physician from 1946 until his retirement on June 30, 1955, for the infection referred to in the bill. It was the opinion of naval medical authorities during this period that there was no causal relationship between Mr. Lindall's complaint and the work which he had been performing as a naval civilian employee. Following Mr. Lindall's retirement, he suggested that his condition was occupational in origin. The matter was then submitted to the Bureau of Employees' Compensation and was rejected by letter dated March 13, 1953, on the basis that the time for filing the claim had expired. Further application for review of the case were denied by the Bureau of Employees' Compensation on October 30, 1953, and May 26, 1955.

While Mr. Lindall is a former civilian employee of the Navy, the Department of Labor (Bureau of Employees' Compensation) has primary jurisdiction over matters of this nature and consequently, the Department of the Navy defers to the views of that Department regarding the merits of H. R. 2966.

The Department of the Navy has been informed by the Bureau of the Budget that there would be no objection to the submission of the report on H. R. 2966 to the Congress.

For the Secretary of the Navy,
Sincerely yours,

E. C. STEPHAN,
Rear Admiral, United States Navy,
Chief of Legislative Liaison.

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